



Refuse Utilities: The State of the Industry

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Purpose

- Purpose
 - Provide historical context of the refuse industry in Alaska
 - Provide regulatory options for the future of the industry
- Additional Notes
 - Focus on substantial order
 - Not intended to single out any particular refuse utility.

Presentation Topics

- Commission Jurisdiction
- Brief History of the Regulation of Refuse
- Significant Orders (Commercial and Residential)
- Refuse Market Summary
- Current Refuse Market Maps
- Filing Requirements
- Application Process
- Regulatory Options for the Future of the Industry

Commission Jurisdiction - Statutes

- AS 42.05.221 - Certificate is required to operate a public utility.
- AS 42.05.990(6)(F) – Definition for Public Refuse Utility
 - “...furnishing or collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation”
 - Is not considered a public utility until 10 or more customers are served pursuant AS 42.05.990(5)
- AS 42.05.711 – Exemptions
 - AS 42.05.711(b) – A public utility owned and operated by a political subdivision of the state are exempt from [AS 42.05], other than AS 42.05.221-42.05.281 and 42.05.385.
 - AS 42.05.711(i) - A refuse utility having annual gross revenues of \$300,000 or less is exempt from the provisions of [AS 42.05], other than the certification provisions of AS 42.05.221-42.05.281.

Commission Jurisdiction - Regulations

- 3 AAC 52.750 & .755
 - Establishes procedural guidance for refuse utilities that:
 - Are subject to exemption from certain regulatory requirements under AS 42.05.711 (i); and
 - Become ineligible for exemption from certain regulatory requirements by virtue of exceeding the economic threshold prescribed in AS 42.05.711 (i)
 - Gives the Commission the authority to waive all or any portion of the standards in 3 AAC 52.750 & .755 applicable to an individual refuse utility, or establish interim standards for that utility
 - Establishes continued requirements for refuse utilities exempt under AS 42.05.711 (i)
 - Affidavit stating AS 42.05.711 (i) still applies
 - After exceeding economic threshold set forth in AS 42.05.711 (i), the utility shall:
 - Notify Commission not later than 30 days of exceeding the threshold
 - File a tariff
 - Begin paying RCC's
 - File an annual report
- Refuse Utilities have the fewest utility-specific regulations
 - Regulations for Refuse Utilities are limited to reporting requirements, *not* specific service requirements

Brief Legislative History of Refuse Regulation

- Alaska Public Utility Commission (APUC) was given the authority to regulate refuse service and certification July 1, 1973 (SB97).
 - Legislation defined refuse service as a public utility
 - Provided the baseline jurisdiction for the Commission
- In 1985, the Division of Legislative Audit (DLA) conducted a review of the APUC and determined the following:
 - APUC should continue to regulate public utilities, pipelines and pipeline carriers.
 - "...competition ensured adequate service at the lowest reasonable rates."
 - Refuse, radio common carrier and cable television could be deregulated because refuse services are not as capital intensive.

Brief Legislative History of Refuse Regulation

■ Exemptions

- Exemption Under AS 42.05.711 (i) was changed from \$200,000 to \$300,000 effective June 26, 1995 (has not been changed since).
 - Only exemption specific to refuse utilities
- Consumer Price Index (CPI) – is a measure that examines the weighted average of prices of a basket of consumer goods and services.
 - Adjusting for inflation alone, \$300,000 in 1995 is approximately **\$500,000 in 2019**.

Brief Legislative History of Refuse Regulation (Continued)

- HB161 proposed the deregulation of refuse utilities on February 25, 1997
 - Discussion topics included:
 - Uneven and inadequate service
 - “Cream Skimming”
 - Health Concerns
 - Competition in various markets
 - After much discussion, the bill was withdrawn on April 30, 1998
- HB178 proposed to shift regulatory authority from the APUC to local governments on April 7, 1999.
 - Discussion topics included:
 - No mechanisms in place for rate reduction
 - Local governments ability to regulate
 - Ability to promote competition
 - After discussion and two proposed amendments, no further action was taken with the bill
- R-06-010 – Deregulation discussion transmitted to the Governor's Office
 - Proposal to exempt commercial refuse utilities from certain provisions of AS 42.05
 - No action was taken by the Commission; findings and discussion were forwarded to the Governor's Office

Significant Orders - Commercial

- U-85-066(3) – Approving Wasilla Refuse to extend service area
 - Commission specifically defined the minimum threshold requirements for determining fitness, willingness, and ability to serve
 - Minimum threshold requirements include:
 - a copy of the applicant's business license;
 - a list of vehicles the applicant proposes to use, with a showing that the vehicles are suitable for refuse collection;
 - a showing that the applicant owns the vehicles or has the financial ability to purchase the vehicles listed;
 - a showing that the applicant has met the State's vehicle registration and liability insurance requirements; and
 - a showing that the proposed facilities will meet the Alaska Department of Environmental Conservation's requirements for transporting refuse.
- The Commission established reduced standards for entry, but did not establish standards for transitioning in or out of the market.

Significant Orders – Commercial (Continued)

- U-94-102(12) – Rate regulation in Anchorage depending on service provided
 - Commercial customers using roll-on/roll-off containers and dumpsters over two cubic yards in size and designed to be mechanically emptied should not be regulated.
 - Roll-on/roll-off service and dumpster service will not be economically regulated by the Commission.
 - The Commission will not permit discrimination in prices or service to customers within the same customer class.
 - All customers receiving services within a customer class must be billed the same rates and charges for service.
 - To ensure that all customers are treated equally and have notice of the rates to be charged for specific services, all competing refuse utilities must file tariffs with the Commission.
 - Tariffs will be filed for informational purposes;
 - To provide notice to the public and to allow the Commission to determine that service is being provided in a safe, reasonable, and nondiscriminatory manner, and;
 - Refuse utilities will be permitted to alter the rates and charges in the filed tariffs upon thirty days notice to consumers.

Significant Orders – Commercial (Continued)

- U-99-099(8) – Petition for economic exemption
 - Redefined that customer classifications to be based on can, dumpster, and roll-on/roll-off as the primary categories, with sub-categories based upon the size of the container, as applicable.
 - Wasilla area opened to economically regulated
- U-02-067(2) – Deregulation of commercial service in Fairbanks
 - Due to increased number of competitors, the Commission economically deregulated
 - Utilities with annual gross revenues over \$300,000 will be exempt from economic regulation of commercial refuse service only.
 - The Commission will not review tariffs for rates, only to ensure customers are being treated equally
 - The tariffs will provide notice to the public and allow us to determine that service is being provided in a safe, reasonable, and nondiscriminatory manner.
 - Each utility will be permitted to alter the rates and charges in the filed tariffs upon thirty days notice to the consumers.

Significant Orders – Commercial (Continued)

- U-04-119(2) – Anchorage commercial market goes from rate deregulated to economically regulated.
 - The Anchorage residential and commercial, Kenai residential and commercial, and Mat-Su residential and commercial markets are economically regulated, with the exception of roll-off service in the Kenai/Soldotna area.
- U-07-032(6) et al. - Commercial refuse service is no longer economically regulated in the Mat-Su, MOA, Girdwood, Whittier, KPB, and FNSB
 - Commission confirmed existing position:
 1. Commercial refuse utilities will be required to file an informational tariff with the RCA;
 2. The Commission will not review tariff rates but will use tariff filings by commercial refuse utilities to confirm that all customers within a customer class are being treated equally, have notice of the rates to be charged for specific services, and that service will be provided in a safe, reasonable and non-discriminatory manner;
 3. Commercial refuse service rates and charges can be revised on
 4. 30 days notice to customers and the RCA;
 5. All informational tariff filings shall be noticed in the manner described in Order U-02-67;
 6. Competitively bid special contracts will be filed on an informational basis and take effect on 30 days notice, and;
 7. Commercial refuse utilities will be required to pay regulatory cost charges and file annual report.

Significant Orders – Residential (Continued)

- U-83-008(4) et al. – Order allowing limited competition in the Mat-Su
 - The Commission will not authorize competition where a natural monopoly exists
 - Capital intensive;
 - Technologically static;
 - Characterized by large-scale production economies;
 - Exclusive or depletive in use of public ways or resources; and,
 - Essential to the public welfare.
- U-86-097(3) – Commission allowed Wasilla Refuse to provide competitive commercial and residential refuse service
 - Commission determined that competitive refuse service in the Mat-Su prevents:
 - Discriminatory preclusion of only one type of entity from competing in the certificated area.
 - Frustration of the public interest to require wide spread competition in the Mat-Su Borough.
 - Inequities in that entities operating pursuant to relaxed entry criteria designated to promote competition may take advantage of compensation awards premised on a monopoly environment.

Significant Orders – Residential (Continued)

- U-03-021 (2) – Commission approves Great Alaska Sanitation to provide competitive residential refuse service in the Anchorage area
 - Conditions included:
 - Economic regulation
 - Tariff revision
 - Revenue requirement
 - Additional applications would be reviewed on a case-by-case basis
 - Similar Conditions were imposed on BlueArctic when the Commission approved their application to provide competitive commercial and residential refuse service in Anchorage in U-16-087(3)

Key Takeaways from Significant Orders

- ▶ Oversight regarding refuse utilities stem from Commission decisions within individual dockets.
 - ▶ Area specific determinations
 - ▶ Precedent issues
- ▶ Commission defined minimum threshold for fitness, willingness, and ability
- ▶ Deregulation of commercial refuse in major areas
 - ▶ Commission will not review tariffs for rates, only for customer fairness
 - ▶ Rate adjustments with 30 days notice
- ▶ Commission has allowed for limited competition in some residential markets
 - ▶ Subject to: economic regulation, tariff revision, revenue requirements

Commission Staff's Time Allocation for Refuse

- 37 Active Refuse Certificates
- Commission Staff's Time (in hours)

Section	2013	2014	2015	2016	2017	2018
ALJ	304	622	523	221	412	192
Common Carrier	31.5	0	8	35	1.5	0
Consumer Protection	81.25	198.5	137	163.5	206.2	96.5
Engineering	223	414.75	490	866.5	1272.5	479
Finance	528.3	589.5	603.75	86.5	103	150.25
Paralegal	372	422	527	406.75	540.25	410
Tariffs	325.75	269.5	366	369.25	333.5	430.25
Total Refuse Time	1865.8	2516.25	2654.75	2148.5	2868.95	1758
Total Commission Time	130,473.8	49,625.4	48,707.95	43,780	42,883.25	39,659.5
Percentage of time for Refuse	1.4%	5%	5.4%	4.9%	6.6%	4.43%

Refuse Market Summary

Regulated/Deregulated & Competitive/Noncompetitive

Region	Commercial			Residential		
	Reg/De-Reg	Comp/ Non-Comp	Order/Regs	Reg/De-Reg	Comp/ Non-Comp	Order/Regs
Anchorage	Deregulated	Competitive	U-07-32 et al.	Regulated	Competitive	U-03-021(2)
Mat-Su	Deregulated	Competitive	U-07-32 et al.	Regulated	Competitive	U-83-008 et al.
Fairbanks	Deregulated	Competitive	U-07-32 et al.	Regulated	Competitive	U-92-012(3)
Kenai Peninsula	Deregulated	Competitive	U-07-32 et al.	Regulated	Non-Competitive	AS 42.05.411
Eagle River	Deregulated	Competitive	U-07-32 et al.	Regulated	Competitive	AS 42.05.411
Girdwood	Deregulated	Competitive	U-07-32 et al.	Regulated	Non-Competitive	AS 42.05.411
Whittier	Deregulated	Competitive	U-07-32 et al.	Regulated	Non-Competitive	AS 42.05.411
Ketchikan	Regulated	Competitive	U-13-167	Regulated	Non-Competitive	AS 42.05.411
Juneau	Regulated	Non-Competitive	U-13-164	Regulated	Competitive	U-86-097(4)
Nome	Regulated	Non-Competitive	U-13-166	Regulated	Non-Competitive	AS 42.05.411
Aniak	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)
Bethel	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Bristol Bay Borough	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)
Copper River Area	Regulated	Non-Competitive	U-15-053(3)	Regulated	Non-Competitive	AS 42.05.411
Cordova	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Craig	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Delta Junction	Regulated	Competitive	U-15-069(4)	Regulated	Competitive	U-15-069(4)
Dillingham	Regulated	Non-Competitive	TR1500007	Regulated	Non-Competitive	Undetermined
Dutch Harbor	Regulated	Non-Competitive	U-13-165	Regulated	Non-Competitive	AS 42.05.411
Haines	Exempt	Competitive	AS 42.05.711(i)	Exempt	Competitive	U-01-020(10)
King Cove	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Kodiak	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
McGrath	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)
North Slope	Exempt	Competitive	AS 42.05.711(b)(2)	Exempt	Non-Competitive	AS 42.05.711(b)(2)
Parks Highway	Regulated	Non-Competitive	U-13-015(2)	Regulated	Non-Competitive	AS 42.05.411
Petersburg	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Sitka	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Skagway	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Talkeetna	Exempt	Non-Competitive	AS 42.05.711(i)			
Thorne Bay	Exempt	Non-Competitive	AS 42.05.711(b)	Exempt	Non-Competitive	AS 42.05.711(b)
Tok	Exempt	Non-Competitive	AS 42.05.711(i)			
Tyonek	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)
Valdez	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)
Yakutat	Exempt	Non-Competitive	AS 42.05.711(i)	Exempt	Non-Competitive	AS 42.05.711(i)

Commercial Refuse Market



Residential Refuse Market



Filing Requirements

➤ Economically Regulated Utility

- Standard Tariff Filings
 - 3 AAC 48.200 – 3 AAC 48.400
 - Must have consecutively numbers Tariff Advice Letter
 - Must file 45 days before the tariff can take effect
 - 3 AAC 48.275: Must provide supporting information
 - 3 AAC 48.280: Notice period must be at least 45 days
 - Annual Operation Report
 - Regulatory Cost Charge Payments and Reports including Annual RCC reports
 - Special Contracts

➤ Deregulated Utility

- Information Tariff Filings, including special contracts
- U-07-032(6) reconfirmed:
 - Filings go into effect after 30 days notice to the Commission
 - Must publish a public notice of all proposed tariff revisions and special contracts
 - Must be noticed in the manner described in the body of the order
- Annual Operation Report
- Regulatory Cost Charge Payments and Reports, including Annual RCC Reports (if applicable)

Refuse Applications

- PU 101 – New or Amended Certificate
- X107 – Acquiring a controlling interest
- PU 103 – Transfer of Certificate
- Reduced Standard – New or Amended Certificate (only in areas where the Commission has approved unlimited competition)
 - The only refuse specific application

Potential Options for the Future of Refuse Regulation

1. Continue with current structure
2. Revise current structure
 - Potential issues/themes to be considered:
 - Creation of refuse specific regulations
 - Increasing/Adjusting exemptions to better suit refuse utilities
 - Clarify/Create Commission definitions
 - Create a methodology that allows competitive markets to adjust rates in a fair manner
 - Provide guidelines for the application of rate ranges within cost structures
 - Examine/Adjust reporting requirements of refuse utilities
3. Deregulate Refuse utilities pursuant AS 42.05.711 (d)

Questions?